



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,914	11/08/2000	Davide Imbeni	2466-75	9075

7590 02/23/2004

Nixon & Vanderhye P C
1100 North Glebe Road
8th Floor
Arlington, VA 22201-4714

EXAMINER

CORRIELUS, JEAN B

ART UNIT	PAPER NUMBER
----------	--------------

2631

8

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/707,914

Applicant(s)

IMBENI ET AL.

Examiner

Jean B Corrielus

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2000.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5, 8, 15-19, 22 and 29-31 is/are rejected.
7) ☒ Claim(s) 6, 7, 9-14, 20, 21 and 23-28 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/7
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 21, 29 and 31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 7 and 21, the limitation "the resulting subset" lacks of proper antecedent basis.

Claims 29 and 31 are likewise rejected because of their dependency to claim 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8, 15-19, 22 and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Magnusson et al US patent no. 6,163,524.

As per claims 1, 15 and 30 Magnusson et al discloses a method and apparatus having the steps of noting the rate of a code to be allocated for an incoming call see col. 9, line 7; determining the availability of codes having the desired bit rate col. 9, lines 8-11; allocating a code in accordance with preselected rules by considering the availability of the different codes in a way leading to an optimal use of the code structure, col. 9, lines 13-17, lines 26-34.

As per claims 2 and 16, the incoming request is assigned to another code structure if it is determined that the transfer capacity would be exceeded see fig. 8 and col. 9, lines 35-45.

As per claims 3 and 17 the incoming request is blocked if it is determined that the transfer capacity would be exceeded by the call request see col. 10, lines 22-25.

As per claims 4 and 18, allocating a code of the requested bit rate if there is at least one available code of the requested bit rate see col. 9, lines 13-17.

As per claims 5 and 19, if there is more than one code of the requested bit rate available the code in accordance with preselected rules in such a way that the selection of a code to be allocated is performed so as to prioritize codes preserving a highest possible number of available higher bit rate codes see col. 8, lines 48-59 and col. 9, lines 46-67.

As per claims 8 and 22, fig. 6 shows the further step of performing reallocation if is considered that no codes of the requested bit rate exist.

As per claims 29 and 31, the steps of claims 1-14 are performed by fig. 6.

Art Unit: 2631

Allowable Subject Matter

Claims 6, 7, 9-14, 20, 21, 23-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314

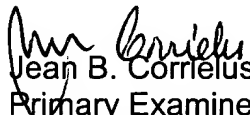
(for informal or draft communications, please label "PROPOSED"
or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023. The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour, can be reached on (703) 306-3034.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.


Jean B. Corrielus
Primary Examiner
TC-2600 2/19/04